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UNCLAS SECTION 01 OF 04 GENEVA 001689

SIPDIS

E.O. 12958: N/A

TAGS: [PREF](#) [UNHCR](#)

SUBJECT: UNHCR: INTERNATIONAL PROTECTION

REF: GENEVA 01605

1. (U) SUMMARY: The Executive Committee (ExCom) of the United Nations High Commissioner for Refugees (UNHCR) held a meeting of its "Standing Committee" June 28-30 to discuss budget and program matters. This cable focuses on protection issues, the main topic of the June meeting. Others will focus on budget matters and the High Commissioner's Five Commitments to Refugee Women. UNHCR presented papers on "The International Note on Protection", statelessness, mass influx situations, local integration and self reliance, complementary forms of protection, refugee women, and on "Project Profile." Debates, particularly on local integration, gender issues, and complementary forms of protection, were lively. An undercurrent to the meeting was the issue of Internally Displaced Persons (IDPs) (see reftel), a category of people for whom UNHCR is still trying to delineate its protection role. The discussions reflected concern about recent high-profile cases of refoulement, the merit of generic frameworks, while nations directly affected by refugee movements actively defended their policies and looked to UNHCR for additional assistance. END SUMMARY.

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Note on International Protection  
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2. (U) Director of the Department for International Protection Erika Feller introduced this year's Note on International Protection as "only a part of a mosaic of material on protection issues." The note emphasized the close link between the legal, social, and economic aspects of protection. Noting that physical security of refugees was a central issue, she expressed concern about recent refoulements of refugees, rape as a weapon of conflict, abduction and recruitment of children, recent incidences of refoulement, and a re-emergence of boat arrivals. She welcomed the "almost unprecedented" levels of voluntary repatriation and the "rehabilitation" of resettlement as a durable solution, but noted that local integration remains an "elusive solution." She defined international protection as the safeguarding of physical security and the enjoyment of rights. Of her recent trip to Sudan, Feller said that UNHCR had insufficient staff on the ground to do full justice to the protection responsibilities entrusted to UNHCR in West Darfur. She also complained of the gap between supportive rhetoric and actual funding of protection interventions there.

3. (U) Feller said UNHCR was trying to realize protection in a climate of "asylum fatigue" triggered by the asylum/migration nexus, international crime, terrorism and smuggling of people. She cited a lack of funding as the reason why UNHCR does not have adequate numbers for appropriately staffed protection and community services posts and why protection-related duties are often delegated to junior staff and UNVs. She also highlighted food insecurity for refugees and stressed partnerships. She expressed UNHCR's commitment to the collaborative approach. Feller noted concern about mandate gaps, saying that the need for protection (and assistance) was not restricted to refugees and asylum-seekers. Key challenges for UNHCR were how to ensure that resources at the disposal of protection are adequate to the tasks, to capacitate managers in all aspects of protection, to ensure the expertise and knowledge of all staff doing protection, to minimize security problems, to work within the current operational climate, including "asylum fatigue", and how to realize solutions in an environment of unresolved or rekindling conflicts, protracted stay, uneven burden-sharing and limited asylum space.

4. (U) Highlights from the lengthy and wide-ranging debate included a call for a more analytical approach to the Note, more focus on delivery on the ground, and a holistic approach to protection and operations. Several member states expressed support for the collaborative approach on IDPs and there were mixed views regarding Convention-Plus (there were some calls for mainstreaming it), and stressed the importance of resettlement. Concern was expressed regarding the overuse and possible misuse of the Protection Surge Capacity Project and Feller agreed to convene a meeting of interested parties to discuss UNHCR's approach to IDPs and other populations of interest.

5. (U) Most delegations agreed that the core mandate of UNHCR is protection, and that the preferred durable solution for

refugees is voluntary repatriation with a community-based focus for reintegration. Feller noted that there was also a need for broader, perhaps global, consultations to distinguish between protection and non-protection needs. As occurred in the May informal discussions on the preparation of the 2006 budget (see reftel), many delegations expressed concern over the increasing number of internally displaced persons (IDPs), and stressed the collaborative approach as the correct solution. It was plain throughout the three-day meeting that UNHCR is committed to establishing a more active and predictable role on IDPs.

16. (U) USdel noted that resettlement criteria must be flexible to accommodate needs. Many delegations asked that UNHCR strengthen its resettlement function and promote regional resettlement programs such as the Latin American example. For many countries, resettlement is seen as a viable solution and should have synergy with other durable solutions. The Australian delegation lobbied for upgrading the level of the senior resettlement position.

17. (U) Other delegations expressed concern over "asylum-shopping." The Italian delegation asserted that more than 50 per cent of asylum-seekers disappear from camps before their status is determined, effectively giving them an illegal status. Many delegations called for the development of a multilateral framework with burden- and responsibility-sharing in order to preserve respect for asylum, ignoring the fact that negotiations on a framework on irregular secondary movements have stalled. Some said UNHCR should work with IOM and ILO to address the prevalence of economic migrants.

18. (U) Many delegations mentioned their desire to strengthen the implementation of the 1951 Convention by registering asylum-seekers using a standardized system, specifically mentioning biometrics as a possible solution to prevent fraud and irregular secondary movements. The African group was particularly concerned with this issue. There was also discussion on how EU efforts to define a common asylum system, and possibly joint resettlement programs, would impact countries in and out of the EU.

19. (U) USdel called for a halt to refoulement by Rwanda, Burundi, and Kyrgyzstan (welcomed by Feller who said it was time to start naming names in Standing Committee,) sought information on the increase by over two million of people of concern to UNHCR (IDPs in Sudan and Colombia plus stateless persons), requested consultation with member states on UNHCR's role vis-a-vis IDPs, expressed concern at dearth of experienced international protection staff, emphasized the need for more focus in the Note on physical protection and on women and children, and highlighted the need for more self-reliance for refugees. USdel praised registration efforts, called for donors to better support World Food Program, and called for a continued increase in UNHCR's resettlement capacity. Feller said that improved counting of IDPs in Sudan and Colombia and stateless persons were responsible for the large increase in persons of concern to UNHCR. USdel commented that the Note inadequately covered the important issue of physical protection. Feller agreed to include more on the issue next year. USdel also expressed concern about the impact UNHCR's taking a larger role regarding IDPs might have on host countries willingness to grant asylum; Feller said UNHCR was conscious of the risk and preserving the principle of non-refoulement was a criterion for HCR involvement with IDPs. There were differing views on the future of Convention-Plus protocol with a few delegates (Denmark) calling for its continuation while others (Finland, Austria, the U.S., Canada) recommending that it was time to mainstream it, apply it to the field, and give the responsibility for further discussions on it to the Standing Committee.

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Statelessness - No Restriction on Scope of UNHCR's Activities  
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10. (U) Many states agreed that statelessness is a major issue that needs to be remedied. The progress report published by UNHCR at the meeting called for an increase in the role that UNHCR will play on this issue. Basing its mandate on General Assembly and ExCom decisions, UNHCR said its responsibility extended well beyond the strictly legal. However, UNHCR assured USdel that it had no intention of expanding its activities dramatically. UNHCR is working with nations who have large numbers of stateless people to develop national frameworks. The debate became personal between Russia and Latvia/Estonia regarding former Soviet citizens who did not gain citizenship at the time of independence.

11. (U) USdel called for follow-up on the provisions included in the Executive Committee Conclusions encouraging States, in cooperation with UNHCR, to work on resolving statelessness, including through the resettlement of stateless persons in precarious situations who may be

refugees, stressed the importance of ensuring that all children are registered when born, regardless of their nationality, status or place of birth, urged UNHCR to outline objectives targeting selected regions with stateless populations and reflect such objectives in its global appeal, and mainstream the issue of statelessness into its regular operations and training programs. Amnesty International, on behalf of the NGOs, noted the universal right to a state, welcomed UNHCR's expansion in Central and Eastern Europe and called for a dedicated budget line for stateless activities.

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International Cooperation in Mass Influx Situations  
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¶12. (U) There were differing views on "International Cooperation and Burden Sharing in Mass Influx Situations." Refugee-hosting countries supported the creation of new mechanisms and conclusions for international cooperation, while donor countries spoke out against the need for additional frameworks and roundtables. Donor countries are looking for more empirical analysis and practical solutions on the issue in lieu of generic theory. They are concerned about trying to create a one-size-fits-all structure that will not adequately target solutions in specific crises. A study on the issue, which had been blocked by DIP Head Feller because it failed to deal with many practical aspects, is expected to be published shortly.

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Local Integration and Self-Reliance - Small Signs of Hope  
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¶13. (U) The debate on "Local Integration and Self Reliance" was more forthcoming than in the past when many refugee-hosting countries refused to discuss either of these issues. A statement by Deputy Director of Protection Ngonlardje Mbaidjol that emphasized both the strong advantages and interrelatedness of the two issues catalyzed much of the debate. Most of the differences were found between resettlement countries and mass-influx countries. Smaller nations were concerned about the impact of local integration on their economic, social, and environmental condition, while the wealthier resettlement nations agreed with UNHCR about the benefits. All delegations stressed that special programs need to be developed for women and child refugees.

¶14. (U) A few nations still hesitated to discuss Self-Reliance at all, while others wanted self-reliance to be officially described as a "tool" to achieving durable solutions. Both resettlement nations and mass-influx nations noted its ability to reduce host-country burdens, including food aid. Strangely, some states also raised IDP needs under this agenda item.

¶15. (U) While it was obvious there were strong differences of opinion, the Africa Group acknowledged that local integration could be an option for small numbers of refugees, as long as the international community focused on burden-sharing in this context. The US Committee on Refugees and Immigrants' statement on behalf of the NGOs was relatively low key, quite well received, and described as "fair" by the Zambian delegate. It stressed, as did several delegates, that self-reliance should not be restricted to durable solutions but should be viewed in the context of ongoing care and maintenance situations. The underlying question on many delegates' minds was whether or not refugees are agents of development.

¶16. (U) UNHCR is planning a study on the impact of local integration in developing countries to be published next year.

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COMPLEMENTARY FORMS OF PROTECTION  
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¶17. (U) The document on "Complementary Forms of Protection" highlighted the need for the international protection system to address protection gaps, called for complementary forms of protection for people who cannot obtain refugee status under the 1951 Convention; that complementary forms of protection should strengthen the global refugee regime; and that complementary forms of protection should not weaken the measures in place to address statelessness. The subsequent debate centered on where UNHCR's mandate begins and ends and who should be the beneficiary of complementary forms of protection, with many delegations calling for a more harmonized, consistent procedure to examine all international protection needs. Other delegations asked that UNHCR ensure that refugee protection is not undermined by complementary protection, that persons granted complementary protection not be given the same status and rights as Convention refugees, and that there be a clear distinction between complementary and temporary protection.

¶18. (U) Feller emphasized that UNHCR is not trying to confuse concepts and equate protection with mandates, humanitarian response with protection being offered, or protection with status. Feller said that UNHCR does not have a mandate for every victim of displacement or in need of protection. She also drew attention to the report's conclusion, which mentions that the 1951 Convention should be implemented resolutely and fully, and that complementary forms of protection should not be substituted for the Convention. However, she also noted that relevant law is not only based on the 1951 Convention, but the applicability extends to the OAU Convention and the Convention on the Rights of the Child.

¶19. (U) Feller stated that there would be situations when the 1951 Convention is not applied as resolutely as it should be.

In addition, Feller highlighted that UNHCR's paper does not/not address the situation of persons who have been excluded from refugee status, but who nevertheless cannot, under relevant human rights law, be returned to a country where they would face a risk of torture, cruel, inhuman or degrading treatment or punishment. In addition, Feller stated that UNHCR's conclusion is not intended to provide in full detail the substance of complementary forms of the protection regime, but rather suggest an outside framework for consideration. Nevertheless, Feller asserted that the mandate between UNHCR and statelessness is clear. UNHCR has a mandate for stateless people, coming from Article 11 under the 1961 Convention on the Reduction of Statelessness and by decisions of the General Assembly.

¶20. (U) Member states seemed to agree that the ExCom conclusion should provide a general outline rather than being all-encompassing because there should be sufficient flexibility for nations to account for differences in granting complementary protection. In particular, the Australian delegation stated that it was not appropriate to have a "one size fits all" process with so many different possible situations. In response, Feller mentioned that there would be significant development at the regional level to ensure flexibility at the national level.

¶21. (U) Member states also appeared concerned about the distinction between humanitarian as opposed to refugee assistance, and highlighted that grants of international protection should be on the basis of the threat to the individual. The British, Dutch, and Italian delegations, as well as NGOs, emphasized that international protection should not be extended to victims of natural disasters; with the Dutch government stating that its government did not agree that international protection should be extended to any people who do not fall under the 1951 Convention. In response, Feller noted that statutes on protection needs do not automatically grant status to people who are fleeing natural disasters, but that perhaps some forms of complementary protection should be designed.

¶22. (U) Discussion of draft conclusions on "Local Integration and Self-Reliance" and "Complementary Forms of Protection" will begin July 13 and 14.  
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